Annheuser Busch Brewing Assoc., supra. Some courts have put it on the ground of the negligence of the manufacturer, implied from the violation of the pure food statute, under the general rule giving a private right of action against the wrongdoer for injuries sustained from a violation of the statute. *Salmon* v. *Libby, McNeill & Libby, supra; Meshbesher* v. *Channellene Oil & Mfg. Co., supra.* Others have placed the liability for furnishing defective provisions, which endanger human life, on the same ground as the manufacturing of patent or proprietary medicine. *Tomlinson* v. *Armour & Co., supra; Roberts* v. *Annheuser Busch Brewing Assoc., supra; Wilson* v. *Ferguson Co., supra; Haley* v. *Swift & Co., supra; Parks* v. *Pie Co.,* 93 Kan. 334; *Jackson Coca Cola Bottling Co.* v. *Chapman,* 106 Miss. 864; *Boyd* v. *Coca Cola Bottling Co.,* 132 Tenn. 23; *Liggett & Meyers Tobacco Co.* v. *Cannon,* 132 Tenn. 419. One court has rested the liability upon the principle that the original delivery of the article is wrongful and that everyone is responsible for the natural consequences of his wrongful acts. *Weiser* v. *Holzman,* 33 Wash. 87. In another case the Federal court said, "the remedies of the injured consumer ought not to be made to depend upon the intricacies of the law of sales. The obligation of the manufacturer should not be based alone upon privity of contract. It should rest upon the demands of social justice." *Ketterer* v. *Armour & Co.,* 200 Fed. 322. However one case supports the view of an implied warranty, which runs with the goods, and allows a recovery on that ground. *Mazetti* v. *Armour & Co., supra.* In that case the court said, "a manufacturer of food products under modern conditions impliedly warrants his goods, when dispensed in original packages, and that such warranty is available to all who may be damaged by their use in the legitimate channels of trade." The same argument was relied on in the dissenting opinion of the principal case, namely, that an implied warranty should run with the property. However the weight of authority numerically seems to be, that such recovery is based on the theory of negligence and not on breach of contract as contended for in *Mazetti* v. *Armour & Co., supra,* and in the dissenting opinion in the principal case. As to the liability of the retailer for implied warranty of provisions, see 17 MICH. L. REV. 192; and as to implied warranty of wholesomeness in general, see 16 MICH. L. REV. 555.

TORTS—RIGHT TO PRIVACY.—Plaintiff's name and picture were published in defendant's motion pictures as pictorial news. Picture was a truthful one taken while plaintiff was engaged in solving a famous murder mystery of extreme interest to the public and which had been featured together with plaintiff's aid in its solution by all the daily papers at the time. Suit is brought for alleged violation of the right to privacy under a New York statute prohibiting the use of a person's name or picture without consent in writing for advertising purposes or for the purposes of trade and giving the injured person a cause of action for injuries suffered and exemplary damages. *Held* that statute did not prohibit the publication of a picture or name without written consent in a set of films of actual events as a matter of current news. *Humiston* v. *Universal Film Co.,* (N. Y., 1919) 178 N. Y. S. 752.

The theory that a person has a right of privacy for the violation of which a cause of action accrues is one of recent development and was advanced for the first time in 4 HARV. L. REV. 193. This right was first unequivocally recognized by the courts as independent from any property right or libelous representations in the case of *Pavesich* v. *New England Mutual Life Ins. Co.*, 122 Ga. 190 and this case has been followed in Kentucky and New Jersey. *Foster-Millburn Co.* v. *Chinn*, 134 Ky. 424; 8 MICH. L. REV. 221; *Edison* v. *Edison Polyform Co.*, 73 N. J. Eq. 136. Contra, *Roberson* v. *Rochester Folding Box Co.*, 171 N. Y. 538; *Henry* v. *Cherry*, 30 R. I. 13; *Corelli* v. *Wall*, 22 T. L. Rep. 532. See *Atkinson* v. *Doherty & Co.*, 121 Mich. 372. The New York court in the majority opinion refused to recognize the existence of the right to privacy in the case above cited, and that decision furnished the occasion of the enactment of the statute which formed the basis of the principal case. The decision is important in limiting the application of a prior case under the same statute, *Binns* v. *Vitagraph Co.*, 210 N. Y. 51, where the plaintiff's heroic act at sea was reproduced by actors under the plaintiff's name and formed the nucleus of a picture drama and where a recovery was allowed. In the principal case a distinction is made between an actual picture of news value distributed as a news item and a representation by actors dressed to resemble the plaintiff in order to enhance the value of a story which admittedly was only a fiction. To allow a recovery in the former case would be to make a newspaper liable for all news published without the consent of the person featured, a result obviously not intended by the legislature in view of the circumstances under which the statute was enacted. On the right of privacy generally see 18 Ann. Cas. 1017, 2 Ann. Cas. 574, Ann. Cas. 1915 B, 1027, 12 COL. L. REV. 693.

WILLS—GIFT OVER UPON DEATH OF PREVIOUS TAKER WITHOUT CHILDREN.—After directing by will that a sum of money be placed in trust for the benefit of each of his three children, and that if any child died without issue, the fund should become part of the residue, the testator gave part of the residue to his wife and the rest of the residue to his three children equally, "provided * * * that if either of my children shall die without leaving a living child or children, then the share of such child shall become the property of the survivor or survivors, it being my intention that the surviving child * * * or children shall have the whole balance of my estate." One of the children, a son, died childless after the death of the testator, and his widow claims his share of the residue. It was *held* that she was not entitled to her deceased husband's share, but that it went to the testator's surviving children. *In re Peavey's Esate* (Minn., 1919), 175 N. W. 105.

There is apparently a conflict of authority on the point here involved. Some courts adopt the rule that a will making a devise over upon the death of the first taker is to be understood to refer to the death of the first taker if it occurs within the life of the testator, but if the first taker survives the